**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL**

**WRIT PETITION NO. 1219 OF 2001 (MS)**

**(OLD NO. 11906 OF 2000)**

U.P State Electricity Board,
Now U.P. Power Corporation Limited)
14-Ashoka Marg, Shakti Bhawan, Lucknow.
Through its Secretary and the Executive
Engineer, Electricity Distribution Division (R),
Dehradun. .....Petitioner.

Versus

1. M/s Pyrities Phosphates & Chemicals Ltd, 1-A/B Ravindranath Tagore Marg, Dehradun.
2. II Addl. Distt. Judge, Dehradun.
3. III Addl. Civil Judge, Dehradun. .....Respondents.

***Mr. N.S. Negi, Advocate for the petitioner.***
***Mr. V.K. Kohli, Sr. Advocate assisted by Sri I.P. Kohli, Advocate for the respondent no. 1.***

**Dated: 25.04.2006**

**Hon'ble Rajesh Tandon, J.**

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 17th November, 1999 (Annexure 10 to the writ petition) passed by the respondent no. 2 in Civil Appeal No. 58 of 1995 and the order dated 29th April, 1995 (Annexure 9 to the writ petition) passed by the Civil Judge, Dehradun is Misc. Case No. 119 of 1989 in Arbitration Suit No. 409 of 1989 under Section 30/33 of the Arbitration Act., 1940.

Briefly stated, respondent no. 1 had an electric connection for Industrial purposes with the petitioner for 500 KVA electrical load. Vide agreement dated 21.12.1981 additional load of 150

KVA was contracted between the petitioner and respondent no. 1 and the said additional load was released on 03.08.1982. The matter was checked on 13.03.1983, when it was found that 'Y' Phase of CT Termincal was damaged and the meter was not receiving electricity from the said phase. However, the respondent no.1 disputed the said bill and raised a dispute by invoking arbitration clause, whereupon Sri R.N. Garg, Executive Director, Hydrop Electro Project was appointed as the sole arbitrator and was required to submit his award within a period of four months. The Arbitrator entered into a reference on 09.10.1984 and fixed 11.12.1984 as the first date of hearing. Parties have submitted their claims before the arbitrator. However, the arbitrator gave his award on 7th May, 1987. the award was filed in the Court of Civil Judge on 02.01.1989 by the respondent no. 1 On filing the said award, notice was issued and hence the petitioner has filed an application U/s 30/33 of the Arbitration Act along with Section 5 Application. After the exchange of the pleadings, the trial Court vide its order dated 29.04.1995 rejected the objection under Section 30/33 of the Arbitration Act. An appeal was preferred against the order dated 29.04.1995 and the appeal was also on 17.11.1999

Present writ petition has been filed against two orders passed by the Civil Judge and appellate Court.

Counsel for the respondent Sri V.K. Kohli, Sr. Advocate, assisted by Sri I.P. Kohli, has raised preliminary objection that against the appellate order, no writ petition lies and the jurisdiction under Article 226/227 is completely barred.

Apart from the said objection, counsel for the respondent no. 1 has also submitted that both the courts below have recorded a finding in favour of the respondent no. 1 and there has not been any irregularity while passing the award by the arbitrator and as such the objection u/s 30/33 of the Arbitration

Act was rejected. The appellate Court has also confirmed the order and as such I find no illegality apart form the fact that the writ petition is not maintainable, I have also perused the award. The order passed in proceedings under Section 30/33 of the Arbitration Act as well as the appellate order and I find no illegality having not misconduct the proceedings, therefore, application under Section 30/33 of the Arbitration Act has rightly been rejected.

Writ petition is dismissed. No order as to costs.

(Rajesh Tandon, J.)

25.04.2006

*Rathour*